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### **The Last Judgment: Christian Ethics in a Legal Culture [Review of The Last Judgment: Christian Ethics in a Legal Culture by Andrew Skotnicki]**

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Andrew Skotnicki, *The Last Judgment: Christian Ethics in a Legal Culture* (Farnham: Ashgate, 2012), xiii + 197 pp. £55. ISBN 978-1-4094-3574-7 (hbk).

Incarceration in the United States has rocketed. About 2.2 million people (around 0.7% of the adult population) are currently in prison at an annual cost of \$70bn. This is five times the number in 1980. Notoriously, poor members of racial minorities comprise around 70% of the prison population despite constituting only 30% of the general population. A key driver of this imprisonment industry and the resurgence of other harsh punishments has been Christianity. For example, a 2004 Gallup poll found that 71% of Protestants and 66% of Roman Catholics supported the death penalty.

Christians in Europe often regard this predicament with perplexity. To many of us it seems obvious that Christian imperatives such as mercy, forgiveness and community mitigate against a 'law and order' mindset. Moreover, across Europe capital punishment has been completely abolished. Why, we might well ask, is the developed country in which our faith is strongest also the country that has been sucked into the deepest spiral of violence, crime and retribution?

Andrew Skotnicki's response opens with an analysis of the role of law in US society. The criminal code has expanded exponentially such that there now exist over 300,000 federal regulations whose violation is punishable by imprisonment. The state of California even sentenced a man to life in prison for stealing a pair of socks. 'Nuisance crimes' have multiplied, arrest is increasingly assumed to imply guilt and former prisoners remain deprived of most civil rights. Were it not for discretion and the failure to identify all offences committed, virtually everyone would be in prison.

Skotnicki then traces the role of law in scripture. Contrary to what might be supposed, he shows that the Old Testament presents a comparatively enlightened legal code. What is right and wrong is determined not by the whim of mighty rulers but by God, and is seen as reflecting the natural order of creation. Law is covenantal and relational, being addressed to the individual in second-person language. Legal infringement is equated with sin: in other words, if an act is not sinful there are no grounds for making it illegal. Violent punishments and imprisonment were in practice not often imposed. The reader is reminded repeatedly that the law must be applied equally to all, and that the powerful must not be treated more favourably than the weak. Skotnicki stresses what he calls the 'world-creating' dimension of law (p. 14). From a Christian viewpoint, then, the Mosaic law was the first stage in the creation of a new, divinely-sanctioned legal order. The New Testament is thereby presented as in continuity with the Old. Jesus is provocatively described as someone known mostly through records of civil disturbances and 'police actions' (p. 27). Drawing especially on Matthew's Gospel, Skotnicki nevertheless recognizes that, from a theological viewpoint, Jesus fulfilled the law rather than abolished it. He also drew a clear distinction between sin and crime. Nevertheless, the universalism of his message had the effect of creating a heterogeneous people with no unifying nationality or civil law. The relation between faith and law was at this point thrown wide open.

This allowed a high degree of Christian accommodation to the ruling powers, as in Paul, Augustine and several of the Church Fathers. Yet alongside this pact was founded an alternative approach to law and punishment. Confession, whether communal or private, placed guilt, judgment and restitution within a Christian context of liturgy, forgiveness and reconciliation. Moreover, the first prisons were operated by abbots and bishops, with confinement justified on the grounds that it offered time for reflection, penitence and reconversion. Discretion allowed penalties to be applied flexibly in order to maximize the likelihood that these goods might be attained.

In the summary thus far, law has been functional. Yet the Gregorian reform of the 1070s established law as a written code that commanded absolute obedience. The criminal law was thereby born, being closely linked with the Church's attempt to establish itself as an independent political state and spawning the later medieval profession of canon law. It is here that Skotnicki locates the origins of the present-day notion of criminality as the

infringement of a self-validating law that, as such, demands punishment regardless of the consequences.

It is instructive that Skotnicki recognizes the ambiguous heritage of the Enlightenment for law and penal policy. On the one hand, it marked a further expansion in the rational, all-subsuming Hegelian state. Yet figures like Jeremy Bentham, the English utilitarian, and Cesare Beccaria, the Italian jurist, were concerned to humanize prisons in order that they might serve legitimate and useful social functions. The point of Bentham's spanking machine was not to make theatre out of punishment but to eliminate excesses. Around this time many Christian preachers were presenting harsh penalties, including executions, as God's just vengeance on the guilty administered by his earthly agents. Even in the later Middle Ages, in contrast, mechanisms had persisted by which judgment was deferred to God, whether trial by ordeal or the casting of lots for the release of condemned prisoners.

The book's later chapters are perhaps less engaging than its opening four, in which the scriptural and historical data underpinning the Christian case for penal reform are lucidly presented. The material from a wide variety of secular thinkers does not always seem to gel, and the book's final chapter, rather than laying out concrete proposals, returns to scripture. Moreover, it would have been interesting to learn about the reasons for the recent small but significant fall in the size of the US prison population. Does this offer grounds for hope? Nevertheless, this study deserves to be read, both in the US and elsewhere. Any Christian who thinks that US penal policy is broadly defensible on theological, ethical or policy grounds should read it. Those for whom the arguments are already won will gain new understanding of the theological history behind one nation's current predicament, and how others might avoid falling into it.

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